

REMARKS

Claim 3 is rejected under 35 U.S.C. § 112, second paragraph. Claims 1-8 are rejected under 35 U.S.C. § 102(b). Applicants note with appreciation that the Examiner has allowed claims 10-17. Claim 3 is amended. Claims 1-8 are pending.

1. 35 U.S.C. § 112, second paragraph: Rejection of Claim 3

Claim 3 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, in regard to claim 3, the Examiner states that the recitation of window sash is indefinite because the window sash is functionally recited.

In order to more clearly point out the claimed subject matter, Applicants amend 3. Applicants agree with the Examiner's suggestion to replace "mounted" with --mountable-- at line 5 of claim 3, and have therefore amended claim 3 to recite "a locking arrangement [mounted] mountable with [the] a window sash. Because it is unclear whether the amendments to this claim that were submitted in the previous response were ultimately entered, Applicants also resubmit herewith the amendment (i.e., the amendment adding the phrase --in use--) that was submitted in the previous response. It is believed that, by virtue of these amendments, all claims now particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

2. 35 U.S.C. § 102(b): Rejection of Claims 1-8

Claims 1-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,497,135 to Vetter ("Vetter").

In order to anticipate a claim under 35 U.S.C. § 102, a single prior art reference must teach each and every limitation of the claim. Applicants' claim 1 recites a hinge as part of a window operator. Vetter does not teach this limitation.

According to the Examiner, Vetter teaches a window sash having an opening mechanism with a hinge. The Examiner states that "[t]he opening mechanism includes a threaded member 49, a drive mechanism 65, a threaded element 41 and a hinge 35. A locking bar is provided by member 60 shown in Figure 1." The Examiner also states that "it is clear that the hinge of Vetter is connected to the coupling such that movement in the coupling 40 moves the hinge 35 . . . If the hinge 35 is connected to the motor and the mechanism that is moved by the motor then it is

certainly reasonable to state that the hinge is part of the window operator. But for the hinge, the window would not move." (Final Office Action, at pages 3-4).

As stated above, Applicants submit that Vetter does not disclose a hinge as part of a window operator. Instead, Vetter, discloses a conventional construction where window sash 11 is mounted to the window frame by a separate piece of hardware, namely a hinge formed by a guide track 31 which runs along guide block 30 and an arm 32 which is pivotally coupled at 33 to the guide track 31 and is coupled at its distal end to the window sash. As can be seen in Figure 3 of Vetter, for example, guide track 31 is mounted by screws (the heads of which are visible) into the window frame, this mounting being independent of the window operator. Therefore, at least for the reasons stated above, there is no teaching in Vetter that the hinge can actually form part of the window operator.

More specifically, in Vetter, the hinge is not item 35, as suggested by the Examiner. The hinge is made up of mounting plate 31 and arms 30 and 32, which are coupled to window sash 11 either by direct coupling to the sash or as is more usual, by a mounting plate (not shown). It is these combinations of elements that form the hinge, not arm 35. Arm 35 is simply an arm for transferring the driving movement of the operator to the window sash.

Arm 35, with its coupling 36, 37 and 38 to sash 11, and arm 42, with its coupling 44 to sash 11, also do not form a hinge. On the contrary, they form a drive arrangement which moves sash 11. The only reason that sash 11 is able to move is because, it is hinged onto frame 10 by hinge 30, 31 and 32.

There is no coupling between the window operator of Vetter and the hinge. As stated above, the window operator is driving, coupled to sash 11 via arms 35 and 42. The hinge is an entirely different piece of hardware that hingedly mounts sash 11 onto frame 10.

The definition of a "hinge" is a movable joint or mechanism by which a door, window or the like is hung to permit opening and shutting. Arms 35 and 42 do not and cannot hang sash 11 into window frame 10. This is, as stated above, the sole domain of the separate item of hardware, namely the hinge comprising mounting plate 31 and arms 30 and 32 together with whatever means they are attached to sash 11.

The configuration of Vetter is explained at col. 2, lines 51-60 of Vetter. "Guide track 31" of Vetter is referred to by Applicants as a mounting plate. This guide track 31 together with a guide block 30 and hinge arm 32 is said to all be part of a hinge and the hinge structure being of the type shown in U.S. patent No. 2,948,027, the disclosure of which is actually incorporated by reference into the Vetter specification. Therefore, Vetter makes it entirely clear that the hinge is a separate piece of hardware and that movement is imparted to the window by operator arm 35 (see col. 2, line 41 - col. 3, line 17 of Vetter).

Applicants also respectfully direct the Examiner to col. 3, lines 18-20 of Vetter, where it says that the foregoing structure provides means (i.e., the hinge) for mounting the window for opening and closing movement and means (i.e., the operator) for opening and closing the window. This text of Vetter further supports Applicants' position that there is no teaching in Vetter that the hinge can actually form part of the window operator.

Therefore, we believe that based solely on the clear wording of Vetter, the Examiner's view that arm 35 forms a hinge is a mischaracterization, and is invalid.

Additionally, it appears that the Examiner has also overlooked another key aspect of claim 1. In amended claim 1, Applicants submit that it is clear that the hinge is mountable to a window frame by the mounting. As the claim states, the mounting is part of the window operator. There is absolutely no disclosure in Vetter of the hinge being mountable to window frame 10 by the mounting of the window operator.

In Vetter, the mounting is formed by support bar 48 which extends between and is affixed to brackets 50 and 51 with which lead screw 49 is rotatably mounted. As Figure 3 of Vetter shows, end brackets 50 and 51 have openings through which screws are inserted to fix into sill 15 of window frame 10. This is the manner in which the window operator is mounted. (See col. 3, lines 4-17 of Vetter). See also, Figure 3 of Vetter, which shows that, as a clearly separate item, the hinge is affixed to sill 15 by screws which engage through openings in guide track 31.

Therefore, not only is there no teaching in Vetter of a coupling of the window operator being connected to a part of the hinge, there is also no teaching of the hinge being mountable to a window frame by the mounting of the window operator. Vetter simply discloses a conventional arrangement of sash 11 being mounted to frame 10 by a window hinge and an operator being separately mounted to frame 11, and connected to sash 11, there being no interconnection between the operator and the hinge.

Accordingly, Applicants submit that Vetter does not teach every limitation of claim 1. Dependent claims 2-8 are also, therefore, not anticipated by Vetter. Therefore, withdrawal of the rejection of claims 1-8 under 35 U.S.C. § 102(b) is respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that all claims now pending are in proper form, are not anticipated by the relied upon art of record, and are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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Dated: July 3, 2002

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CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box AF, Assistant Commissioner for Patents, Washington, D.C. 20231, on July 3, 2002


Marilyn Bass

July 3, 2002

Enclosures: Mark-Up Version Showing Changes to the Claims



APPENDIX
MARK UP VERSION SHOWING AMENDMENTS TO CLAIMS

The claims are amended as follows:

3. (once amended) A window operator as claimed in claim 1, further including a lost motion mechanism between the threaded element and the coupling, and an engagement device for in use engaging with a locking arrangement [mounted] mountable with [the] a window sash, the engagement device being movable by said lost motion mechanism to apply a locking action to the locking arrangement.

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